


# **Integrating Natural Resource Concerns With DOE Clean Up**

Cooperative Natural Resource Damage  
Assessment and Restoration Workshop  
San Diego, CA , June 9, 2004  
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Resource Conservation (EH-43)  
U.S. Department of Energy



# Natural Resource Trustees

- Secretary of Energy one of several *Federal* Trustees
- Federal Co-Trustee role
- State/ Indian Tribe lawsuits
  - Fernald (OH) >\$200 M
  - South Valley (NM) >\$260M
  - Hanford (Yakama Nation) > \$?

## **“Integrate NR Concerns into Environmental Response Process”**

- 1997 Position taken by DOE’s Office of Environmental Management (EM)
- Establish Trustee Councils  
(engage co-trustees, SSABs early in response phase)
- Share NR data; perform integrated studies
- Restore/ replace NRs as part of response
- Avoid cost of remobilization and litigation

# DOE Trustee Coordinators

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- Field Office Coordinators
- P.O.C. with co-Trustees
- Field Office liaison with EM program

# DOE Steering Committee

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- EH-43, Program offices, General Counsel, Field Counsel, Site Coordinators
- Advise and consult on NR issues and integration pilot projects
- Policy: “...assist field with implementation”

# Steering Committee

- **Projects**
  - **Fernald natural resource restoration plan**
    - **Ecological Restoration Park**
  - **Oak Ridge sediments, conservation easements**
  - **SRS watershed analysis**
  - **Columbia River radiation risk assessment**
  - **Hanford Tolling agreements; NRDA lawsuit**
  - **Report to Congress**

# Fernald, OH

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- Lawsuit dates to late '80's
- 1989 - EH involvement
- Problems: GW aquifer; D&D, surface soils
- NR Restoration Plan looked at substitution for GW values to incorporate above ground
- Solution: Ecological Restoration Park w/ native revegetation; replace hot spots with surface water impoundments, wetlands mitigation

# Oak Ridge Operations

- **Contaminated sediments of Lower Watts Bar Reservoir (radionuclides)**
- **AIP w/Tennessee for 3000 acres Conservation Easement**
- **State to manage for wildlife, “in part” addressing NRDA. Contemplates offset of value of easement w/respect to future damages; unclear as to whether contractually binding**



# Rocky Flats

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- NRDA or trust fund
- Wildlife Refuge Legislation
- No NRDA issue, *per se*.
- Ecological risk assessment questions

# Hanford Site

- Assisted site to establish 1<sup>st</sup> chartered “Trustee council.”
- Early 1990s: NOAA/DOI Preliminary Assessments early reserved interest
- Mid- 90’s: Corps of Engineers PAS at 1100 Area found “no injury”

# Hanford Site II

- 2000: Council PAS for 1100 Area: “Yes, injury; but NRDA not warranted.”
- 2001: Tribes deny PAS. Tolling of SOL.
- 7/02: Yakama 60-Day Letter
- 9/02: 1100 Area NRD suit in Fed. District Court. DoD co-defendant.

# Current Issues

- OH - Eco Restoration Park; old lawsuit
- NM - indemnification of defendants
- CO - Wildlife Refuge legislation
- WA - Hanford 1100 NRDA suit
- MO – WSSRAP adjacent to wildlife area
- TN – Conservation Easements

## Issues (II)

- **Life Cycle Cost Analysis**
  - **Sec. 107 liability, a life cycle cost**
  - **Cost - one of nine remedy selection criteria**
  - **Alternatives w/collateral damage/ 107 cost**
  - **EPA: Section 107 not a cost criterion**
  - **“I&I” defense - EIS or “comparable analysis”**
  - **EPA: No ‘I&I’ defense in CERCLA docs**

# Lessons Learned

- Process highly dependent on coordinator
  - Expertise and management issues
- Training and re-training: a constant
- Co-Trustees seek funding to participate
- Project and budget not integrated
  - developing integrated project baseline

## ...Lessons Learned

- Regulatory agency cooperation not assured
- Process subject to other site issues and public perception
- Open-ended charter detracts from focus
- Public needs to understand what's being discussed. Avoid creating expectation of “two clean ups”